

CONSENTING TO AN INTERSTATE COMPACT TO
CONSERVE OIL AND GAS

JULY 23, 1959.—Ordered to be printed

Mr. ANDERSON, from the Committee on Interior and Insular Affairs,
submitted the following

REPORT

[To accompany H.J. Res. 280]

The Committee on Interior and Insular Affairs, to whom was referred the joint resolution (H.J. Res. 280) consenting to an interstate compact to conserve oil and gas, having considered the same, report favorably thereon without amendment and recommend that the joint resolution do pass.

All executive agencies concerned have reported favorably on the measure, and committee action was unanimous.

PURPOSE OF MEASURE

House Joint Resolution 280 gives the consent of the Congress to extension and renewal, for a period of 4 years from September 1, 1959, of the interstate compact to conserve oil and gas. The compact was first approved by the 74th Congress in 1935 (49 Stat. 939), and has been renewed and extended by successive Congresses seven times since then, most recently by Public Law 185, 84th Congress, 1st session (69 Stat. 385). The measure that became this Public Law was Senate Joint Resolution 38, which was considered and reported favorably by the Committee on Interior and Insular Affairs in May 1955.

During Senate floor consideration of the resolution in July of 1955, a provision was added requiring annual reports by the Attorney General of the United States on whether the activities of the States under the compact were consistent with article V of the compact. Article V provides:

It is not the purpose of this compact to authorize the States joining herein to limit the production of oil or gas for the purpose of stabilizing or fixing the price thereof, or create

or perpetuate monopoly, or to promote regimentation, but is limited to the purpose of conserving oil and gas and preventing the avoidable waste thereof within reasonable limitations.

The Attorney General has made the required reports each year, and in each has given the States a clean bill of health with respect to the observance of article V.

This provision for surveillance and report by the Attorney General has been retained in House Joint Resolution 280, despite the recommendation of the Deputy Attorney General that the Department be relieved of such responsibility. (See letter of Hon. Lawrence E. Walsh to Congressman Oren Harris.)

More than half the States of the Union, representing the greater part of our domestic oil production, are members of the compact, and the committee finds that in its 24 years of existence it has achieved notable success in fulfilling its avowed mission of preventing waste of oil and gas through local, State action.

THE COMPACT

The text of the provisions of the compact, and its legal history, are set forth in full in House Joint Resolution 280.

Article II provides:

The purpose of this compact is to conserve oil and gas by the prevention of physical waste thereof from any cause (lines 2-4, p. 4, of H.J. Res. 280).

Member States agree to enact and enforce State legislation to prevent waste of oil and gas, and article VI provides for each member State to appoint one representative to a Commission, designated the Interstate Oil Compact Commission, the duty of which shall be—

to make inquiry and ascertain from time to time such methods, practices, circumstances, and conditions as may be disclosed for bringing about conservation and the prevention of physical waste of oil and gas, and at such intervals as said Commission deems beneficial it shall report its findings and recommendations to the several States for adoption or rejection.

The Commission has no power of compulsion. Its sole and only purpose is to assist the States, industry, and public in general in promoting the conservation program, the compact providing, by its terms, that—

The Commission shall have power to recommend the coordination of the exercise of the police powers of the several States within their several jurisdictions to promote the maximum ultimate recovery from the petroleum reserves of said States, and to recommend measures for the maximum ultimate recovery of oil and gas.

Thus, the sole authority for carrying out the conservation program rests with the member States.

Any State may withdraw on 60 days' notice, but no State has ever exercised this privilege. Rather, membership has steadily increased

from the original 6 sponsoring States to a total of 29 active States (i.e., States in which oil or gas is now produced) and 6 associate members (i.e., States in which there are excellent prospects that oil or gas will be produced).

MEMBERSHIP IN THE COMPACT

The agreement to extend and renew this compact for a period of 4 years from September 1, 1959, to September 1, 1963, has been duly executed by the representatives of Alabama, Alaska, Arizona, Arkansas, Colorado, Florida, Illinois, Indiana, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Montana, Nebraska, Nevada, New Mexico, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Washington, West Virginia, and Wyoming. It will be noted that the attested signatures of the Governors of Alaska, Illinois, and Kansas do not appear in the joint resolution. The committee has been informed that the Governors of Alaska and Kansas have executed the agreement since the resolution was introduced and that enabling legislation has been enacted by the Illinois Legislature effective July 1, 1959.

BACKGROUND OF COMPACT

In 1931, when the oil industry was threatened with complete demoralization as a result of the uncontrolled and wastefully produced flood of oil from the east Texas and Oklahoma fields, the Governors of those States and of New Mexico and Kansas formed a Governors committee, which became an Oil States Advisory Committee, to find ways of meeting the critical situation. A draft of a uniform legislative act for conservation and interstate compact was presented to Congress but failed of passage. Throughout 1932-34, many meetings were held and objectionable features of the earlier compact proposals were eliminated, and in December 1934 a subcommittee of the House Interstate and Foreign Commerce Committee reported to the Congress:

We strongly urge upon the oil-producing States the adoption of State compacts to deal with the problems of production of petroleum with which individual States are powerless to cope—

and gave its opinion that—

A State compact * * * is the solution of those problems of petroleum production which cannot be solved with modification of the "law of capture" and other legislation operating within State boundaries.

Enactment of the parent interstate oil compact law, Public Resolution 67, 74th Congress, followed.

CONGRESSIONAL APPROVAL NECESSARY

Article I. section 10, of the Constitution of the United States provides:

No State shall, without the consent of Congress, * * *
enter into any agreement or compact with another State
* * *

The committee finds that the interstate oil compact is in complete harmony with the American form of government. It preserves the rights of each of the separate States to deal with its own problems in its own way, while allowing them to work together on a sound program acceptable to all without Federal control.

Conservation of natural resources has become a fixed and well-established national policy. Our oil and gas resources are irreplaceable. The public welfare demands their proper utilization and development, in the interest of the national economy and national security.

Under our system of government, the responsibility for producing oil and gas should rest with the States in which they are produced, but because of the physical nature of oil and gas, and the economics of production and marketing, interstate cooperation is necessary. The committee find as a fact that the interstate oil compact has provided the necessary mechanism for such cooperation.

In view of the demonstrated value to the national interest of the group accomplishments resulting from this compact and its several extensions, the committee recommend favorable action on this joint resolution.

EXECUTIVE AGENCY REPORTS

The reports on H.R. 280 of all of the agencies of the executive branch of the Federal Government concerned with the operation of the interstate oil compact are set forth below.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., May 4, 1959.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. HARRIS: This responds to your request for the views of this Department on House Joint Resolution 280, consenting to an interstate compact to conserve oil and gas.

We recommend the enactment of House Joint Resolution 280.

This joint resolution would extend the life of the interstate compact to conserve oil and gas for a period of 4 years from September 1, 1959. The compact has been extended from time to time with the present expiration date of September 1, 1959.

Since formation on February 16, 1935, when 6 States were members, the membership has grown to 31 States in 1958. The compact has been the leader in the spreading of sound conservation practices throughout most of the oil and gas producing States of this country. It has provided a forum at which State officials, representatives of regulatory bodies, representatives of the oil and gas industry, and representatives from such Federal Government agencies as the Department of Defense, the Department of Interior, and the Federal Power Commission, could discuss conservation problems of common interest with the view toward improving and standardizing conservation practices throughout the country. It has been very successful in this effort.

Its influence extends beyond the borders of this country, and its guidance and counsel have been sought by oil producing provinces in Canada, by Mexico, Colombia, and Venezuela. The Canadian Provinces of Alberta and Saskatchewan have made full use of the experience and advice they have been able to obtain from the Compact Commission. Alberta, Saskatchewan, and the countries of Venezuela and Colombia regularly send observers to meetings of the Interstate Oil Compact Commission.

The Compact Commission has its headquarters in the State Capitol, Oklahoma City, Okla. This office regularly publishes digests of conservation rules, regulations and practices, and special volumes on various aspects of conservation. It has been particularly helpful in its work on secondary recovery of oil, not only in the techniques but also promoting the establishment of effective conservation rules within the States.

Because of the outstanding service this compact renders to oil and gas conservation and the need for continuing improvement in conservation throughout all oil producing States, further extension of the compact by favorable congressional action is definitely in the national interest.

The Bureau of the Budget has advised that there is no objection to the submission of this report to your committee.

Sincerely yours,

ELMER F. BENNETT,
Acting Secretary of the Interior.

DEPARTMENT OF STATE,
Washington, May 7, 1959.

HON. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives.*

DEAR MR. HARRIS: Reference is made to your letters of February 9 and March 9, 1959, requesting a report on H.R. 3167 and House Joint Resolution 280. Both bills concern the interstate compact to conserve oil and gas.

The Department of State has no objection to the passage of the joint resolution, which represents the eighth extension of legislation enacted originally in 1935.

The version currently in force is Public Law 185, 84th Congress, which was introduced as House Joint Resolution 143 and Senate Joint Resolution 38. On March 1, 1955, the Department wrote that it had no objection to the enactment of these joint resolutions. It knows of no occurrence since that time that alters the situation and, consequently, does not recommend the enactment of H.R. 3167, a bill to repeal the present law.

The Department has been informed by the Bureau of the Budget that there is no objection to the submission of this report.

Sincerely yours,

WILLIAM B. MACOMBER, Jr.,
Assistant Secretary
(For the Secretary of State).

GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE,
Washington, D.C., May 4, 1959.

Hon. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives.*

DEAR MR. CHAIRMAN: I refer to your letter of March 9, 1959, requesting a report by the Department of Defense on House Joint Resolution 280, 86th Congress, a resolution consenting to an interstate compact to conserve oil and gas.

The subject joint resolution has as its purpose the extension and renewal for a period of 4 years from September 1, 1959, of the interstate compact to conserve oil and gas.

Since oil and gas are essential to national security, conservation of these resources by the prevention of waste should be supported. Accordingly, the Department of Defense favors enactment of House Joint Resolution 280.

The Bureau of the Budget has advised that there is no objection to the submission of this report to the Congress.

Sincerely yours,

ROBERT DECHERT.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., May 4, 1959.

Hon. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.*

MY DEAR MR. HARRIS: This will acknowledge your letters of February 9, and March 9, 1959, inviting the Bureau of the Budget to comment on H.R. 3167, a bill to repeal the joint resolution entitled "Joint resolution consenting to an interstate compact to conserve oil and gas" and House Joint Resolution 280, a bill consenting to an interstate compact to conserve oil and gas.

Statutes on which the interstate compact to conserve oil and gas has been based have been in force since 1935. The law has been extended by the Congress eight times, the last time for a period of 4 years ending September 1, 1959. House Joint Resolution 280 would extend the compact for an additional 4 years, while H.R. 3167 would repeal the present law and make the interstate compact ineffective.

The Bureau of the Budget would have no objection to the enactment of House Joint Resolution 280, and recommends that H.R. 3167 not be enacted.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

FEDERAL POWER COMMISSION,
Washington, May 1, 1959.

House Joint Resolution 280—86th Congress, 1st session, "Consenting to an interstate compact to conserve oil and gas."

Hon. OREN HARRIS,

*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: In response to your request of March 9, 1959, there are enclosed copies of the report of the Federal Power Commission on the subject bill.

Sincerely yours,

JEROME K. KUYKENDALL,
Chairman.

Enclosure No. 98517.

FEDERAL POWER COMMISSION REPORT ON HOUSE JOINT RESOLUTION
280, 86TH CONGRESS, A JOINT RESOLUTION CONSENTING TO AN INTER-
STATE COMPACT TO CONSERVE OIL AND GAS

House Joint Resolution 280 would grant the consent of Congress to the extension and renewal for a period of 4 years from September 1, 1959, of the interstate compact to conserve oil and gas.

The interstate compact to conserve oil and gas was originally approved by Congress in 1935. Extensions and renewals of the compact have been granted by Congress, with the current 4-year extension period running to September 1, 1959. The Interstate Oil Compact Commission, composed of representatives of the member States, was created by the compact and has continuously functioned under that authority.

It is the Commission's view that the interstate compact to conserve oil and gas, which has as its purpose the conservation of irreplaceable natural resources and the prevention of waste, is in harmony with the spirit of our Federal form of government. The compact enables the signatory States to work together on a voluntary basis to carry out a sound conservation program and thereby accomplish desirable ends which might otherwise remain unfulfilled, while at the same time preserving the rights and responsibilities of each of the separate States.

Section 11(b) of the Natural Gas Act (52 Stat. 827; 15 U.S.C. 717j(b)) requires the Federal Power Commission "to assemble and keep current pertinent information relative to the effect and operation of any compact between two or more States heretofore or hereafter approved by the Congress, to make such information public, and to report to the Congress from time to time, the information so obtained, together with such recommendations as may appear to be appropriate or necessary to promote the purposes of such compact." In accordance with this provision of the Gas Act, the Federal Power Commission has maintained a continuing interest in the Interstate Oil Compact

Commission. For many years the Power Commission has been represented at the meetings of the Oil Compact Commission, and has thereby been kept informed of the work of that organization. In this connection it should be noted that the Power Commission's annual reports to Congress describe the functioning of the Interstate Oil Compact Commission and our relationship to the work of that body. At one of the two meetings of the Compact Commission held during the 1958 fiscal year a panel of two members of the Federal Power Commission and two of its senior staff members discussed the conservation activities of the States with respect to natural gas conservation as related to the responsibilities of the Federal Power Commission under the Natural Gas Act. (See FPC 38th Annual Report (1958), p. 63.)

The Federal Power Commission has consistently given its support to the Oil Compact Commission when the extension of the latter's basic authority has been before the Congress. The Compact Commission's activities are of vital interest to the Federal Power Commission because of their effect on matters relating to the administration of the Natural Gas Act. Continued cooperation between the Power Commission and the compact organization will tend to effectuate the declared purpose of the compact agreement and is of utmost importance to the conservation of the fuel supply of the Nation. We therefore believe that the Compact Commission's program should be continued and fully supported.

For the reasons stated above the Federal Power Commission favors adoption of the joint resolution.

FEDERAL POWER COMMISSION,
By JEROME K. KUYKENDALL, *Chairman*.

DEPARTMENT OF JUSTICE,
Washington, D.C., May 13, 1959.

HON. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice concerning the joint resolution (H.J. Res. 280) consenting to an extension and renewal of the interstate compact to conserve oil and gas.

The interstate compact to conserve oil and gas, to which 29 States are now signatory, is intended to foster action by the oil-producing States to conserve irreplaceable domestic resources of oil and gas by ending waste incident to production. It was originally executed in 1935, and has been since extended periodically. Concern that its provisions might be used to further anticompetitive practice in the industry led at the time of the 1955 extension to amendment of the consenting resolution to require the Attorney General to report annually on the activities of the States under the compact in this respect.

The joint resolution would provide the consent of Congress, necessary under the Constitution (art. 1, sec. 7) to the extension of this interstate compact for a period of 4 years. The present period of the compact expires September 1, 1959. The second section of the

measure would continue for the further period of 4 years, the present requirement that the Attorney General report annually to the Congress on anticompetitive aspects of activities related to the compact.

The subject of this legislation is not a matter for which the Department of Justice has primary responsibility, and we prefer to make no recommendation as to the adoption of the resolution.

The Department of Justice has filed annual reports under the present compact and has uncovered no basis on which to conclude that the compact affects competition in the oil industry. It is believed that further reports would serve no useful purpose. This is especially true since the periodic necessity of publishing detailed views as to the competitive functioning of this industry necessarily entails risk of prejudicing pending antitrust enforcement litigation seeking adjudication as to the same or closely related antitrust questions. Further, the effectiveness of these reports has been reduced by the failure to authorize this Department to compel the production of information on which to base them. Pending antitrust litigation, involving most of the larger units in this industry, narrows severely the area in which those companies are willing to furnish information voluntarily.

Finally, it is observed that as a practical matter any questions of real competitive concern could not be directly related to the operation of this compact in its present form. All State and Federal actions in the field of conservation depend for legal validity upon bases wholly independent of the compact. No action, Federal or State, limiting oil supply is carried out at the direction of the Commission or pursuant to common policies established by it.

It is noted that the resolution does not contain the usual provision reserving the right to alter, amend, or repeal the legislation giving such consent (see 65 Stat. 205). It is suggested that the measure be amended to include such a provision.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely yours,

LAWRENCE E. WALSH,
Deputy Attorney General.

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